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Attorneys for Plaintiff
CAPITAL TRUST, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CAPITAL TRUST, INC.,
Plaintiff,

v.

WALTER R. LEMBI, individually and as
trustee of the WALTER AND LINDA
LEMBI FAMILY TRUST DATED JUNE
30, 2004; FRANK E. LEMBI, individually
and as trustee of the OLGA LEMBI
RESIDUAL TRUST CREATED UNDER
THE PROVISIONS OF PART THREE
OF THE LEMBI FAMILY REVOCABLE
TRUST DATED FEBRUARY 17, 1984,
and as the trustee of the FRANK E.
LEMBI SURVIVOR'S TRUST DATED
FEBRUARY 17, 1984; BILLIE
SALEVOURIS, individually, BILLIE Z.
SALEVOURIS, as trustee for THE
BILLIE SALEVOURIS TRUST DATED
AUGUST 23, 1983 AS RESTATED ON
MAY 24, 2002; DAVID M. RAYNAL,
individually and as trustee for the DAVID
M. RAYNAL REVOCABLE TRUST
DATED MAY 9, 2002; RALPH DAYAN,
individually and as co-trustee for the
AMENDED AND RESTATED DAYAN
FAMILY REVOCABLE TRUST DATED
DECEMBER 31, 1991,

Defendants.

Case No. 09-cv-2492-JSW

Action Filed: June 4, 2009

~~AMENDED PROPOSED~~ ORDER
GRANTING PLAINTIFF'S MOTION
FOR RIGHT TO ATTACH ORDER
AND ORDER FOR ISSUANCE OF
WRIT OF ATTACHMENT AGAINST
DEFENDANTS

Date: August 21, 2009
Time: 9:00 a.m.
Dep't: Courtroom 11, 19th Floor
Judge: Hon. Jeffrey S. White

~~This Court, having considered Plaintiff's Motion for Right to Attach Order And Order for Issuance of Writ of Attachment ("Motion") and supporting documents, [and after a hearing on the Motion on August 21, 2009 where all parties were represented by counsel] hereby GRANTS Plaintiff's Motion.~~ For the reasons set forth in the separate order issued this date granting Plaintiff's motion,

This Court finds that Defendants are natural persons, the claim upon which the application is based is one upon which an attachment may be issued, Plaintiff has established the probable validity of the claim upon which the attachment is based, the attachment is not sought for a purpose other than the recovery on the claim upon which the attachment is based; and the amount to be secured by the attachment is greater than zero. Code Civ. Proc. § 484.090.

This Court also finds that Defendants have failed to prove that all the property sought to be attached and described in Plaintiff's application is exempt from attachment. An undertaking in the amount of \$10,000 is required before a writ shall issue, and Plaintiff has not filed an undertaking in that amount. This ruling is without prejudice to the Defendants seeking to increase that amount.

This Court orders that Plaintiff has a right to attach property as follows:

- (i) of Defendant Walter R. Lembi in the amount of \$16,914,098.90;
- (ii) of Defendant Frank E. Lembi in the amount of \$16,993,136.74;
- (iii) of Defendant Billie Salevouris in the amount of \$7,068,091.06;
- (iv) of Defendant David M. Raynal in the amount of \$4,816,039.38; and
- (v) of Defendant Ralph Dayan in the amount of \$1,909,554.35.

Defendants' primary residences as listed in Schedule A of the Guarantees of Payment attached to the Amended Complaint are exempt and shall not be attached. The clerk shall issue a writ of attachment upon the filing of an undertaking in the amount of \$10,000* for the following property of Defendants that is subject to attachment under California Code of Civil Procedure section 487.010: real property, accounts receivable, chattel paper, general intangibles, equipment, farm products, inventory, final money judgments, money, deposit accounts, negotiable documents of title, instruments,

*The Court's ruling is without prejudice to the Defendants seeking to increase the amount of the undertaking.

1 and securities.

2 IT IS SO ORDERED

3 Dated: September 16, 2009

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5 Honorable Jeffrey S. White

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